THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 26079 of 2005

Dated:22-03-2007

Between:

M/s. Balaji Granites,
Rep., by its Proprietor,
Chittoor.

..... PETITIONER

AND

Government of India,
Rep., by the Principal Chief Conservator of Forests(Central),
Ministry of Environment and Forests,
Bangalore and 10 others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 26079 of 2005

O R D E R:

This writ petition is filed seeking a direction to the respondents 2 to 7 to process the petitioner's application dated 23-07-2003 for grant of clearance under Section 2 of the Forest (Conservation) Act, 1980 (for short 'the Act') by setting aside the proceedings dated 04-05-2006 passed by the 9th respondent.

The facts, in brief, are as under:

The petitioner claims to have made an application for grant of quarry lease to an extent of 3.750 hectors in Veerasettypalli Reserve Forest, Chittoor West Division on 07-08-2000. The said application was rejected by the Director of Mines and Geology on the ground that the petitioner had failed to submit the application for forest clearance. Aggrieved by the same, the petitioner preferred a Revision under Rule 35-A of A.P. Minor Mineral Concession Rules, 1966 which was allowed by order dated 29-11-2001 with a direction to the Director of Mines and Geology to process the petitioner's application as per law. Thereafter the petitioner made an application dated 21-7-2003 to the Principal Chief Conservator of Forests, Hyderabad in terms of new Rules made under the Forest (Conservation) Act, 1980 seeking clearance. It is alleged that in spite of the fact that the petitioner had complied with all the requirements, the second respondent failed to grant the clearance under Section 2 of the Act. Hence, this writ petition seeking a declaration that the inaction on the part of the respondents 1 to 6 is arbitrary and illegal.

During the pendency of this writ petition, by proceedings dated 25-10-2004, the first respondent directed the second respondent to process the application submitted by one M/s Jayasree Granites for clearance under the Act in respect of the very same land situated in Veerasettypalli Reserve Forest. In the circumstances, the petitioner got the prayer in the writ petition amended seeking a further declaration that the action of the respondents in processing the application of M/s Jayasree Granites as well as M/s Hard Granites while ignoring the petitioner's application is arbitrary and illegal.

A counter affidavit has been filed on behalf of the respondents 2 to 6 stating that the application made by the petitioner on 23-07-2003 for prior clearance was transmitted by the Principal Chief Conservator of Forests, Hyderabad vide letter dated 10-09-2003. Having received the same, the Divisional Forest Officer, Chittoor West Division, issued memos dated 09-12-2003, 31-12-2003 and 19-06-2004 requesting to show the area on the ground and to explain certain discrepancies in the application made by him. However, he failed to respond. In the meanwhile, the applications made by other agencies in respect of the same lands situated in compartment No.218 were processed. It was found that apart from the petitioner, two other agencies i.e. M/s. Hard Granites and M/s. Jayasree Granites have applied for mining lease in compartment No.218 and that the area proposed is overlapping with the area already surveyed and demarcated by M/s.Jayasree Granites. Though a notice was issued to all the applicants to appear before the Divisional Forest Officer, the petitioner failed to appear. Accordingly, a report was submitted to the third respondent on 30-08-2004 and on the basis of the same the Government by memo dated 25-10-2004 held that M/s. Jayasree Granites is entitled for priority. Accordingly, the proposals were forwarded in favour of M/s. Jayasree Granites, Chittoor.

I have heard the learned counsel for both the parties.

As could be seen from the material on record, the specific case of the respondents 1 to 6 is that the petitioner failed to comply with the

instructions issued by the officials of the Forest Department and did not take steps for survey and demarcation of the land applied for mining lease. Consequently, the application of the petitioner could not be processed.

In the circumstances, the mere fact that the application of the petitioner was earlier in point of time is immaterial and the petitioner cannot claim any priority over and above the other applicants in respect of the same land. Hence, the writ of Mandamus as prayed cannot be issued.

The writ petition is accordingly dismissed. No costs.

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G. ROHINI, J

Dated: 22-03-2007
KLP